



Follow-up to informal stakeholders meeting of Sept. 29

Karl Berger

to:

Richard Batiuk, Robert Koroncai

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Cc:

Ted Graham, Tanya Spano, Norm Goulet

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Rich and Bob:

Oh behalf of our Bay Policy Committee Chair Cathy Drzyzgyula, other attendees at the meeting and COG staff, thank you very much for the precious 1 ½ hours you spent with us on Sept. 29. We may not agree with every single one of your policy choices, but we certainly appreciate your willingness to talk and listen.

I had a series of rather technical questions about the TMDL that I did not get a chance to ask during the meeting. It was more important that you hear our members' concerns. However, in the spirit of further dialogue and in the hope that someone on your staffs may be able to respond, I have listed the questions I didn't get a chance to ask below. They are not so much comments on the TMDL itself as questions that were raised by my (still very incomplete) review of the TMDL documentation. I have copied Norm Goulet because many of the questions relate to EPA actions in response to the Virginia WIP and may well turn up at the stakeholder meeting in northern Virginia next week.

TMDL technical questions:

1. Does the TMDL document itself state that the allocation numbers can or will be adjusted after Dec. 31, 2010, to reflect changes requested by states or other stakeholders, revised modeling results or errors in the original document?
2. Is it EPA's position that cost and cost-efficiency considerations are not part of the TMDL itself and, if they are to be addressed, must be addressed by states through the WIP process?
3. In the watershed model input deck for the hybrid TMDL relating to Virginia, did you take out whatever load reductions VA had ascribed to its permitted urban stormwater section and replace them with the load reductions from the 50% retrofit option?
4. Does the inclusion of treating 50 % of unregulated land as regulated and applying standards such as barnyard runoff control, mortality composting, precision feed management, etc., to certain AFOs (as well as CAFOs) as federal backstops mean that EPA believes it has the authority to do this under its existing regulatory authority?
5. What are "additional adjustments to ag nonpoint sources as necessary to exactly meet N, P and TSS allocations?" – (quote from TMDL Executive Summary re VA moderate level backstopping measures)? Aren't such measures outside of federal regulatory control?
6. Is it EPA's view that the state WIPs must establish a WLA that is lower than the 2009 progress level for existing urban stormwater loads (i.e. through application of retrofits) before they can establish reasonable assurance for a trading program?

7. Does this same point apply to septic (i.e., state must establish a performance standard requiring load reductions before it can establish reasonable assurance for a trading program)?
8. In looking at the allocations by segment-shed, is there an easy way to tell if the numbers reflect what is necessary for attainment of overall Bay water quality standards or attainment with meeting a localized impairment?

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